IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8969 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RELIABLE HEALTH FOODS & BEVERAGES

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 8969 of 2005

MR JAGDISH H MEHTA for Petitioner No. 1

MR JS YADAV for Respondent Nos. 2-3

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 12/05/2005

ORAL JUDGEMENT

#. Rule. Mr.J.S.Yadav waives service of rule on behalf of the respondent nos.2 and 3. Mr.Mehta, learned

advocate appearing for the petitioner, seeks permission to delete respondent No.1.

#. With the consent of the learned advocates for the respective parties, the matter is taken up for final hearing today.

#. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for appropriate writ, order or direction declaring the action of preventing of the use of BIS marking in respect of flexible pouches (sachets) manufactured by the petitioner to be illegal, arbitrary and unconstitutional.

#. Identical question came to be considered by this Court and by common judgment and order dated 15.4.2005 passed in Special Civil Application No.14389 of 2004 and other cognate matters, this Court has passed the following order.

"12. Under the circumstances, the respondents are restrained from preventing the petitioners from using BIS Marking in respect of flexible pouches / sachets on condition that each of them shall comply with all requirements prescribed under the licence and meet with specifications as per IS : 14543 : 2004 and till new standard is for pouches for packaged drinking water is prescribed and / or specified by the Bureau of Indian Standards and new / amended Bureau of Indian Standards Certification Mark is specified by the Bureau of "Pouches for Packaged Drinking Water" and in cases where licences are already expired and their renewal is refused on the aforesaid policy decision of the Executive Committee, the respondent no. 2 is directed to renew the licence for pouches for packaged drinking water initially for a period of four months i.e. upto 15th July, 2005 and / or till the new and / or amended Bureau of Indian Standard Certification Mark for "Pouches for packaged drinking water" is specified by the Bureau whichever is earlier. This direction is issued in view of the fact that statement is made on behalf of respondent no. 2 BIS that new standard for pouches for packaged drinking water will be finalized by June, 2005 for implementation. It is, however, made clear that if it is found that any of the petitioners is not meeting with specifications and the norms as per IS : 14543 : 2004 and / or the conditions of

licence, it will be open to the respondents to cancel / suspend the licence in accordance with law.

13. For the reasons stated above, the petitions partly succeed. The action of the respondents in not allowing the petitions to use BIS marking with IS : 14543 : 2004 in respect of flexible pouches / sachets and / or not to renew the licence for using BIS Marking in respect of flexible pouches / sachets i.e. IS : 14543 : 2004 is hereby quashed and set aside subject to aforesaid observations and conditions as well as directions above."

#. For the reasons stated in the common judgment and order dated 15.4.2005 in Special Civil Application No.14389 of 2004 and other cognate matters, this petition partly succeeds. The respondents are restrained from preventing the petitioner from using BIS marking in respect of flexible pouches (sachets) manufactured by the petitioner on condition that the petitioner shall comply with all requirements prescribed under the licence subject to renewal of licence and respondent no.2 is directed to renew the licence for pouches (sachets) for packaged drinking water initially for a period upto 15th July 2005 and/or till the new and/or amended Bureau of Indian Standard Certification Mark for "Pouches for Packaged Drinking Water" is specified by the Bureau whichever is earlier. It is, however, made clear that if it is found that the petitioner is not meeting with specifications and the norms as per IS : 14543 : 2004 and/or conditions of licence, it will be open to the respondents to cancel / suspend the licence in accordance with law.

#. Rule is made absolute with no order as to costs.

(M.R.Shah,J)

(pathan)